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EXAMINER

KENNEDY, JOSHUA T

ART UNIT PAPER NUMBER

3679

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/807,981

Applicant(s)

SEUFERT, MATTHIAS

Examiner

Joshua T. Kennedy

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JK

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some.* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-14 have been examined.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 10 and 11 recite the limitation "the lug in the groove" in the second line of each claim. There is insufficient antecedent basis for these limitations in these claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 6-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riehm (US 5,647,682).

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Regarding Claim 1. Riehm discloses a fastening system capable of fastening an object on a patient table, the fastening system comprising:

a fastening device (2b) having a horizontally extending recess (Fig 3) provided on at least one longitudinal side of the patient table; and

a bracket (B) adaptively shaped to engage with the recess,
wherein the bracket is insertable into the recess in a substantially traversal direction to the longitudinal extent of the recess with minimal frictional resistance to establish a force-fitting engagement (see Fig 1).

However, Riehm does not disclose the force-fitting engagement being automatic. Broadly providing an automatic or mechanical means to replace a manual activity, which accomplishes the same result is not sufficient to distinguish over the prior art, thus it would have been obvious to one of ordinary skill in the art to have the force-fitting engagement be automatic rather than manual because the replacement of a manual operation with an automatic operation is a design consideration within the skill of the art. In re Venner, 262 F.2d 91, 120 USPQ 192 (CCPA 1955).

Regarding Claim 2. Riehm discloses a horizontally extending recess provided on at least one longitudinal side of the patient table; and

a bracket adaptively shaped to engage with the recess,
wherein the bracket is inserted into the recess in a substantially traversal direction to the longitudinal extent of the recess with minimal frictional resistance to establish a form-fitting engagement (Fig 1).

However, Riehm does not disclose the force-fitting engagement being automatic. Broadly providing an automatic or mechanical means to replace a manual activity, which accomplishes the same result is not sufficient to distinguish over the prior art, thus it would have been obvious to one of ordinary skill in the art to have the force-fitting engagement be automatic rather than manual because the replacement of a manual operation with an automatic operation is a design consideration within the skill of the art. In re Venner, 262 F.2d 91, 120 USPQ 192 (CCPA 1955).

Regarding Claim 3. Riehm discloses an upper inside wall of the recess extending upwardly toward a back wall of the recess, and a portion of the bracket (B) is adapted to substantially engage with the upper inside wall of the recess toward the back wall of the recess (Fig 3).

Regarding Claim 4. Riehm discloses an upward widening of the recess is formed toward the back wall of the recess (Fig 3).

Regarding Claim 6. Riehm discloses a bracket (B) that is suitably shaped to accommodate an insertion of the bracket in the recess with minimal frictional resistance in a substantially traverse direction to the longitudinal direction of the recess to establish a force-fitting engagement between the recess and the bracket (Fig 1).

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Regarding Claim 7. Riehm discloses a bracket (B) that is suitably shaped to accommodate an insertion of the bracket in the recess with minimal frictional resistance in a substantially traverse direction to the longitudinal direction of the recess to establish a form-fitting engagement between the recess and the bracket (Fig 1).

Regarding Claim 8. Riehm discloses a locking mechanism (8) that biases the bracket away from the recess via a spring (Examiner considers items 10a and 10b in interaction with item 8 to be a spring portion because it returns to its original state once released from extension by item 8) to strengthen the force-fitting engagement of the bracket with the recess.

Regarding Claim 9. Riehm discloses a locking mechanism (8) that biases the bracket away from the recess via a spring (Examiner considers items 10a and 10b in interaction with item to be a spring portion because it returns to its original state once released from extension by locking mechanism 8) to strengthen the form-fitting engagement of the bracket with the recess.

Regarding Claim 10. Riehm discloses a locking mechanism utilizing the engagement of a lug in a groove to stabilize the engagement of the bracket with the recess (Col 3, Lines 59-63), and to minimize inadvertent disengaging movements of the bracket out of the form-fitting engagement of the bracket with the recess (Fig 1), especially since Riehm has been shown to possess all of the structure set forth in the claims.

Regarding Claim 11. Riehm discloses a locking mechanism utilizing the engagement of a lug in a groove to stabilize the engagement of the bracket with the recess (Col 3, Lines 59-63), and to minimize inadvertent disengaging movements of the bracket out of the force- fitting engagement of the bracket with the recess (Fig 1), especially since Riehm has been shown to possess all of the structure set forth in the claims.

Regarding Claim 12. Riehm discloses a bracket for fastening an object on a patient table with a suitably desired recess, with a shape of the bracket being adapted to a shape of the recess in such a way that the bracket is insertable without resistance into the recess in a direction of insertion independent of the direction of extent of the recess and is lodgeable in the recess with automatic establishment of a force-fit or form fit engagement (Figs 1 & 3; Col 3, Lines 54-63).

Regarding Claim 13. Riehm discloses a locking mechanism (8) biasing the bracket (B) away from the recess via a spring (Examiner considers the spring forces, exerted by spring portions 10a and 10b upon interaction with the cam (8a) of the lock (8), to bias each portion 10a and 10b away from the recess in which it they are introduced during initial connection with 2b).

Regarding Claim 14. Riehm discloses the locking mechanism being operable to block a movement of the bracket out of the form-fit engagement with the recess (Fig 1).

Regarding Claim 15. Riehm discloses the insertion of the bracket into the recess occurring without encountering a mechanical resistance (Figs 1 & 3; Col 3, Lines 48-63).

Claims 1, 3, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Daniels (US 4,305,442).

Regarding Claim 1. Daniels discloses a fastening system capable of fastening an object on a patient table, the fastening system comprising:

- a fastening device (22) having a horizontally extending recess (Figs 7&8) provided on at least one longitudinal side of the patient table; and
- a bracket (49) adaptively shaped to engage with the recess,

wherein the bracket is insertable into the recess in a substantially traversal direction to the longitudinal extent of the recess with minimal frictional resistance to automatically establish a force-fitting engagement (Figs 7 & 8).

Regarding Claim 3. Daniels discloses an upper inside wall of the recess extending upwardly toward a back wall of the recess, and a portion of the bracket (49) is adapted to substantially engage with the upper inside wall of the recess toward the back wall of the recess (Figs 7&8).

Regarding Claim 5. Daniels discloses the upper inside wall of the recess having a groove (68), which extends in a parallel direction to the longitudinal of extent of the recess, and the bracket has a lug (67) adapted to engage with the groove with minimal frictional resistance.

Note to Applicant regarding Daniels reference: A recitation with respect to the manner in which an apparatus is intended to be employed does not impose any structural limitation upon the claimed apparatus which differentiates it from a prior art reference disclosing the structural limitations of the claim. In re Pearson, 494 F.2d 1399, 181 USPQ 641 (CCPA 1974); In re Yanush, 477 F.2d 958, 177 USPQ 705 (CCPA 1973); In re Finsterwalder, 436 F.2d 1028, 168 USPQ 530 (CCPA 1971); In re Casey, 370 F.2d 576, 152 USPQ 235 (CCPA 1967); In re Otto, 312 F.2d 937, 136 USPQ 458 (CCPA 1963); Ex parte Masham, 2 USPQ2d 1647 (BdPatApp & Inter 1987).

Response to Arguments

Applicant's arguments filed October 31, 2005 have been fully considered but they are not persuasive.

As to Claims 1 and 2, applicant argues that:

Riehm fails to teach or suggest this automatic fitting arrangement between the bracket and the recess.

As seen in the rejection above, broadly providing an automatic or mechanical means to replace a manual activity, which accomplishes the same result is not sufficient to distinguish over the prior art, thus it would have been obvious to one of ordinary skill

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in the art to have the force-fitting engagement be automatic rather than manual because the replacement of a manual operation with an automatic operation is a design consideration within the skill of the art. In re Venner, 262 F.2d 91, 120 USPQ 192 (CCPA 1955). Thus, the mere fact that the operation is performed automatically rather than manually is not patentable over the prior art

Applicant also argues that:

Daniels fails to teach or suggest [a] minimal frictional resistance encountered during the bracket insertion into the recess.

Examiner respectfully disagrees with Applicant. Daniels teaches the two portions coming together at "a very shallow angle to allow easy insertion" (Col 4, Lines 48-40). The implication by Daniels of an easy insertion of the male member into the female member implies that there is minimal frictional resistance during the insertion operation.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 4614273 to Ishii cited to show a similar mounting connection having a bracket inserted into an horizontally extending recess with a form/force fit engagement

US 5472167 to Shillington cited to show a similar mounting connection having a bracket inserted into an horizontally extending recess with a form/force fit engagement

US 5857304 to Karten cited to show a similar mounting connection having a bracket inserted into an horizontally extending recess using a spring to bias the bracket away from the recess.

US 6557832 to Shreiner cited to show a similar mounting connection having a bracket inserted into an horizontally extending recess with a form/force fit engagement.

US 6588166 to Martensson cited to show a connector using a tongue and groove connection

US 20020122691 Wood cited to show a similar mounting connector having a recess with grooves for the reception of a lug.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua T. Kennedy whose telephone number is (571) 272-8297. The examiner can normally be reached on M-F: 7am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTK
11/14/2005



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